

September 19, 2016

Title

PC 16-21

Petitioner

Dawn Pengiel
6N392 W. Ridgewood Lane
St. Charles IL 60175

Property Owner

Same

Property Location

330 S. Westmore Meyers Road
06-09-308-019
Trustee District #5

Zoning

R2

Existing Land Use

Legal nonconforming duplex

Comprehensive Plan

Low Density Residential

Approval Sought

Conditional use, pursuant to Section 155.305 allowing for a legal nonconforming two-family dwelling that was lawfully established prior to January 1, 1960 and is located in the R2 Single Family Residence District to continue or be re-established as a permitted legal nonconforming use prior to being subject to elimination under the terms of this ordinance.

Prepared By

Jennifer Ganser, Assistant
Director



LOCATION MAP

PROJECT DESCRIPTION

The petitioner is the owner of the property at 330 S. Westmore-Meyers Road. The property is a legal nonconforming two-family dwelling that was lawfully established prior to January 1, 1960 and is located in the R2 Single Family Residence District. The petitioner is seeking a conditional use to continue the use “as is” and have the ability to re-establish the legal conforming status of the property if it is ever damaged or destroyed. No changes or improvements are proposed.

The property owner contacted the Village to obtain a legal nonconforming letter for a potential sale. The bank noted that the property would not be allowed to be rebuilt if it was damaged or destroyed more than 50%. Granting a conditional use would allow the use to be re-established and therefore rebuilt.

APPROVAL(S) REQUIRED

The petitioner requests that the Village grant a conditional use, pursuant to Section 155.305 allowing for a legal nonconforming two-family dwelling that was lawfully established prior to January 1, 1960 and is located in the R2 Single Family Residence District to continue or be re-established as a permitted legal nonconforming use prior to being subject to elimination under the terms of this ordinance.

PROJECT STATS

Lot & Bulk

Parcel Size: 0.196 acres

Submittals

1. Petition for a public hearing;
2. Response to Standards for a Conditional Use, prepared by the petitioner; and
3. Plat of Survey, prepared by Gentile and Associates, Inc., dated August 13, 2002.

EXISTING CONDITIONS

The subject property is legal nonconforming duplex built in 1954. The lot was platted in Robertson's Westmore Subdivision in 1922.

INTER-DEPARTMENTAL REVIEW

Building Division:

The Building Division has no comments.

Fire Department:

The Fire Department has no comments.

Private Engineering Services:

Private Engineering Services (PES) has no comments.

Public Works:

The Department of Public Works has no comments.

Planning Services Division:

The Planning Services Division (PSD) notes the following:

Subsequent to the construction of the property, the Village amended its Zoning Ordinance as part of the 1960 Zoning Ordinance amendments which no longer permitted two-family dwellings in the R2 District.

To address this issue, as outlined in PC 10-17, staff proposed a text amendment to allow property owners of a legal nonconforming two-family dwelling that was lawfully established prior to January 1, 1960 and is located in the R2 Single Family Residence District the ability to proactively seek a conditional use to re-establish the legal conforming status of the property before it is ever damaged or destroyed. As this property meets the provisions of the text amendment, the property owner is seeking a conditional use.

Surrounding Zoning & Land Use Compatibility

	Zoning Districts	Land Use
North	R2	Single-family dwelling
South	R2	Two-flat residential dwelling
East	R3	Multi-family residential dwelling
West	R2	Single-family dwelling

The area is predominantly single-family detached. The area is surrounded by R2 Single Family in three directions, with the exception of multi-family housing to the east zoned R3. Staff finds that although two-family dwellings are not consistent with the R2 district, unless abutting property in the B3, B4 or B4A Districts, the proposed conditional use does not change the overall use and intensity of the property.

The duplex has existed since 1954, per the York Township Assessor. In addition, if the property were to receive the conditional use approval, the property would still be considered legal nonconforming. Therefore the underlying zoning, which is consistent with the surrounding land uses, would still govern the site. The conditional use would allow the building to be rebuilt as a duplex if it was damaged or destroyed.

Parking

A detached garage and driveway provides parking for each unit. The Zoning Ordinance requires two spaces for each unit. Since each unit has one garage space and adequate room for an additional parking space in front of the garage unit, the parking requirements meet Village Code.

Comprehensive Plan Compatibility

The Comprehensive Plan identifies this area for low density residential. The area is predominantly single-family detached. When uses and structures do not meet the provisions of the Zoning Ordinance and are considered legal nonconforming, Section 155.303 of the Zoning Ordinance specifies those circumstances and conditions under which nonconforming buildings, structures, and uses shall be permitted to continue. The reason for having nonconforming provisions is that over time, those uses would cease and only permitted/conditional uses would be allowed. If the property were to receive the conditional use approval, the property would still be considered legal nonconforming. Therefore the underlying zoning, which is consistent with the Comprehensive Plan, would govern the site.

FINDINGS & RECOMMENDATIONS


Staff finds that the duplex use is consistent with its surrounding context, the Village of Lombard Comprehensive Plan, and Zoning Ordinance.

The Inter-Departmental Review Committee has reviewed the standards for the requested conditional use for the duplex and finds that the use **complies** with the standards established by the Village of Lombard Zoning Ordinance, subject to conditions of approval based on the above considerations. As such, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion for **approval** of PC 16-21:

Based on the submitted petition and the testimony presented, the proposed conditional use does comply with the standards required by the Village of Lombard Zoning Ordinance and that granting the conditional use permit is in the public interest and, therefore, I move that the Plan Commission accept the findings of the Inter-Departmental Review Committee Report as the findings of the Plan Commission, and recommend to the Village Board **approval** of PC 16-21, subject to the following conditions:

1. Should the existing residential structure be re-built, it shall conform to the current dimensions and setbacks of the existing building.

Inter-Departmental Review Committee Report approved by:



William J. Heniff, AICP
Director of Community Development

c. Petitioner

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**STANDARDS
FOR CONDITIONAL USES**

The following is an excerpt from the Lombard Zoning Ordinance. A **detailed response** to all of these standards should be provided for all conditional uses of the Lombard Zoning Ordinance.

SECTION 155.103 (F)(8) OF THE LOMBARD ZONING ORDINANCE:

No conditional use shall be recommended by the Plan Commission unless it finds:

1. That the establishment, maintenance, or operation of the conditional use will not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare;
RESPONSE: The relief is to maintain the legal non-conforming status of the property if it were to be damaged or destroyed more than 50% of its fair market value. Maintaining the legal non-conforming status will not be detrimental to public health, safety, morals, comfort, or welfare.

2. That the conditional use will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the neighborhood in which it is to be located;
RESPONSE: The use will not diminish or impair property values as it has existed as a duplex since 1954 (according to York Township Assessor). There are other duplexes in the immediate area.

3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
RESPONSE: The conditional use will not impede development, as the use has existed since 1954 (according to York Township Assessor). The relief would be utilized only if the property were to be damaged or destroyed more than 50% of its fair market value.

4. That the adequate public utilities, access roads, drainage and/or necessary facilities have been or will be provided;
RESPONSE: These facilities have already been provided and are in place.

5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;
RESPONSE: Ingress and egress will not change is already provided.

6. That the proposed conditional use is not contrary to the objectives of the current Comprehensive Plan for the Village of Lombard; and,
RESPONSE: The conditional use is consistent with the R2 District and granting the conditional use would allow for the property to be rebuilt.

7. That the conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified pursuant to the recommendations of the Plan Commission

RESPONSE: Granting the conditional use would allow the property to be rebuilt as duplex if it were to be damaged or destroyed more than 50% of its fair market value.

